

Internal Revenue Service

Department of the Treasury

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CC:ITA:2 – COR-114233-01

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Dear [REDACTED]:

This letter responds to your letter dated March 3, 2001, inquiring about the availability of head of household filing status for unmarried co-habitants. While it is the policy of this office to refrain from commenting on constitutional or state law issues, we are pleased to provide the following general information regarding the requirements for head of household filing status and dependency exemptions under federal tax law.

The rules for head of household filing status and for dependency exemptions are related in that head of household filing status involves an individual who is the taxpayer's dependent, but not every dependent qualifies the taxpayer for the head of household filing status.

There is a five-part test to determine if an individual is a dependent. The elements of this test are found in §§ 151 and 152. Briefly, the individual must be sufficiently related to the taxpayer or be a member of the taxpayer's household. The individual must be a citizen or a resident of the U.S. The individual must not have filed a joint return with another taxpayer. The individual must have gross income less than \$2,800. Finally, the individual must have received more than half his support from the taxpayer. These rules are explained more thoroughly by Publication 501, *Exemptions, Standard Deduction, and Filing Information*, which is enclosed.

Under the first requirement, an individual must either be sufficiently related to the taxpayer, or be a member of the taxpayer's household. So an individual unrelated to the taxpayer may be a dependent under § 152(a)(9) if his or her principal place of abode is the taxpayer's home, and he or she is a member of the taxpayer's household. Section 152(b)(5) provides that an individual is not a member of the taxpayer's household if the relationship between such individual and the taxpayer violates local law. If an individual qualifies as your dependent you may be entitled to an exemption under § 151, unless an exemption for such individual may be claimed by another taxpayer.

An individual may qualify for the head of household filing status under § 2(b) if such individual is not married at the close of his taxable year, is not a surviving spouse, and maintains as his home a household which constitutes the principal place of abode of any person who is a dependent of the taxpayer under § 151.

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However, § 2(b)(3)(B)(i) provides that a taxpayer shall not be considered to be a head of household by reason of an individual who would not be a dependent but for § 152(a)(9). As stated above, § 152(a)(9) permits an individual who is not related to the taxpayer to qualify as a dependent if the other elements of the test are satisfied. Thus, even if an unrelated person is the taxpayer's dependent, the taxpayer may not use head of household filing status if the unrelated person is the only other person in the household.

I hope this information is helpful. Please call Sean Dwyer at the number above if you have any questions.

Enclosure:

Sincerely,

Associate Chief Counsel
(Income Tax & Accounting)

By: _____
George Baker
Assistant to Branch Chief, Branch 2